

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

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AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL

No. 4

Introduced by Senator Murray
(Coauthor: Assembly Member Jerome Horton)

December 6, 2004

~~An act to add Chapter 4.5 (commencing with Section 6400) to Division 7 of Title 1 of the Government Code, relating to state~~ *An act to amend and renumber Section 63040 of, and to add Chapter 2.5 (commencing with Section 63038) to Division 1 of Title 6.7 of, the Government Code, relating to state government.*

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Murray. The California Public Performance Facilities Act.

Existing law authorizes a public agency or entity created pursuant to a joint powers agreement by 2 or more public agencies to, among other things, make and enter into contracts, acquire, construct, manage, maintain, or operate any building, work, or improvement, hold or dispose of property, or incur debts, liabilities, or obligations for specified public purposes. Existing law also authorizes the public agency or entity to issue revenue bonds for acquiring or constructing a coliseum, stadium, sports arena, sports pavilion, or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings.

This bill would enact the California Public Performance Facilities Act and require the Board of Directors of the California Infrastructure and Economic Development Bank to administer the act. The bill would authorize the board to, among other things, acquire, construct, manage, maintain, or operate a facility, as defined, including, but not limited to, a coliseum, stadium, sports arena, theater, performance hall, or sports pavilion, subject to specified conditions. The bill would also authorize the board to sell premium seat licenses, as defined, and naming and sponsorship rights, and to issue revenue bonds and other forms of indebtedness for purposes of the bill, subject to specified conditions.

The bill would authorize the board to enter into agreements with other state or public agencies to operate a facility for the general recreational purposes of a city or county. The bill would also authorize the board to charge a facilities' fee and a transaction fee to cover the actual costs under the act. The bill would prohibit the board from using state funds for any of its purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter ~~4.5~~ 2.5 (commencing with Section
2 ~~6400~~ 63038) is added to Division ~~7~~ 1 of Title ~~1~~ 6.7 of the
3 Government Code, to read:

4
5 CHAPTER ~~4.5~~ 2.5. CALIFORNIA PUBLIC PERFORMANCE
6 FACILITIES ACT

7
8 Article 1. Title and Definitions

9
10 ~~6400~~.
11 63038. This chapter shall be known and may be cited as the
12 California Public Performance Facilities Act.

13 ~~6401~~.
14 63038.1. As used in this chapter, the following definitions
15 shall apply:

16 (a) "Bank" means the California Infrastructure and Economic
17 Development Bank.

(b) “Board” means the Board of Directors of the California Infrastructure and Economic Development Bank.

(c) (1) “Facility” includes all of the following that have received all necessary land use and other development approvals required by the city, county, or city and county in which the proposed facility will be located:

~~(1)~~

(A) Coliseums, stadiums, arenas, pavilions, theaters, performance halls, or other structures or buildings for holding athletic events or other events, performances, and gatherings, including, but not limited to, professional or amateur baseball, football, and basketball, automobile racing, musical, dramatic, artistic, or cultural performances or events, social events, and other public meetings, fairs, or public events.

~~(2)~~

(B) Practice fields and related areas that are part of a facility specified in ~~paragraph (1)~~ *subparagraph (A)*, where professional or amateur sports teams may practice.

~~(3)~~

(C) Property that is part of, adjacent to, or in some other manner directly connected with a facility specified in ~~paragraphs (1) and (2)~~ *subparagraphs (A) and (B)*, including, but not limited to, all of the following:

~~(A)~~

(i) Offices, parking lots and garages, access roads, streets, intersections, highway interchanges, pedestrian walkways, tunnels, bridges, transportation facilities, monuments, restaurants, stores, and other facilities providing goods and services to persons attending performances, meetings, contests, gatherings, or events at a facility.

~~(B)~~

(ii) Other property or structures, including all fixtures, furnishings, and appurtenances, directly associated with a facility.

~~(C)~~

(iii) Facility related landscaping, parks, and open spaces.

~~(D)~~

(iv) Equipment and systems necessary to support a facility or necessary to deliver services to or from the facility, including,

1 but not limited to, telecommunications and computer equipment
2 and systems.

3 (2) “Facility” does not include either of the following:

4 (A) Any structure as described in subparagraph (A) of
5 paragraph (1) located on state-owned property.

6 (B) Renovation or reconstruction of any structure described in
7 subparagraph (A) of paragraph (1).

8 (d) “Premium seat license” means a license that grants a right
9 to purchase various classes of tickets for specific seat locations,
10 including the right to transfer or sell seats and other privileges
11 related to ticket purchases and attendance at the facility.

12 13 Article 2. General Provisions

14
15 ~~6402.~~

16 63038.2. (a) The board may establish by majority vote any
17 rules for the conduct of the board’s business under this chapter, if
18 the rules are not inconsistent with this chapter or other provisions
19 of law.

20 (b) The board may hold hearings, sit and act at designated
21 times and places, administer oaths, take testimony, and receive
22 evidence as the board considers advisable to carry out its duties.
23 The board shall give notice of its meetings in accordance with the
24 Bagley-Keene Open Meeting Act (Article 9 (commencing with
25 Section 11120) of Part 1 of Division 3 of Title 2).

26 (c) Witnesses requested to appear before the board may be
27 paid the same fees as are paid to witnesses pursuant to the Code
28 of Civil Procedure. The per diem and mileage allowances for
29 witnesses shall be paid from funds appropriated to the board.

30 (d) The board may secure directly from any state or local
31 agency information the board considers necessary to carry out its
32 duties. Upon the request of the board, the head of a department or
33 agency shall furnish information to the board.

34 35 Article 3. Powers and Duties

36
37 ~~6406.~~

38 63038.3. The board may exercise all rights and powers,
39 expressed or implied, necessary to carry out the purposes and

1 intent of this chapter and may do all of the following in that
2 regard:

3 (a) Sue and be sued in its own name.

4 (b) (1) Acquire, construct, manage, maintain, or operate any
5 facility or improvement described in subdivision (c) of Section
6 6401 that has received all necessary land use and other
7 development approvals required by the city, county, or city and
8 county in which the proposed facility will be located.

9 (2) Except as provided in this chapter, a facility or
10 improvement constructed pursuant to this chapter shall be subject
11 to laws applicable to state-owned facilities.

12 (c) Hold, manage, occupy, dispose of, convey, encumber, and
13 create leasehold interests in property for the benefit of the
14 authority.

15 (d) Contract with agents and employ employees, define their
16 qualifications and duties, and provide compensation for the
17 performance of their duties.

18 (e) Employ counsel.

19 (f) Establish and enforce rules and regulations for the
20 administration of the board and its property.

21 (g) Enter into joint exercise of powers agreements pursuant to
22 Chapter 5 (commencing with Section 6500) of Division 7 of Title
23 1.

24 (h) Contract with any other public agency for any services
25 necessary to carry out the purposes of this chapter.

26 (i) (1) Notwithstanding any other provision of state law or
27 local ordinance, sell directly or through an agent or agents, upon
28 terms to be fixed by the board, premium seat licenses, facility
29 naming rights, or sponsorship rights to raise funds for facility
30 construction, in addition to funds raised pursuant to Article 4
31 (commencing with Section 6410).

32 (2) Upon completion of a facility, the board may continue to
33 sell premium seat licenses, facility naming rights, or sponsorship
34 rights.

35 (3) Notwithstanding any other provision of law, the board may
36 impose a transaction fee upon the sale of premium seat licenses,
37 facility naming rights, and sponsorship rights. The fee imposed
38 by the board may not exceed the actual administrative costs of
39 the board, including applicable overhead costs, in carrying out
40 the purposes of this chapter.

(j) Impose a facilities fee on tickets sold at a facility financed by the board, which shall be applied to the indebtedness associated with the facility, and the administrative costs of the board.

(k) Incur debts, liabilities, or obligations, which shall not be considered the debts, liabilities, or obligations of the state.

~~6407.~~

63038.4. (a) Subject to subdivision (b), the board shall operate, maintain, and preserve a facility financed pursuant to this chapter in good repair and working order, and shall operate the facility in an efficient and economical manner.

(b) (1) Notwithstanding subdivision (a), the board may lease or rent concessions, lease or rent the facility, or otherwise provide for the operation of the facility.

(2) In addition to any agreement described in paragraph (1), the board may enter into an agreement with another state agency pursuant to Section 11256 or a public agency as defined in Section 22009.01 for the purpose of operating a facility for the general recreational purposes of a city or county.

6408. Excess revenues received pursuant to this chapter shall not be available for any other state expense, but shall be retained by the board for its administrative expenses. Except as provided in this chapter, the board may not use state funds for any of the purposes set forth in this chapter.

Article 4. Issuance of Bonds and Indebtedness

~~6410.~~

63038.5. In addition to other powers, the board may issue revenue bonds pursuant to Article 5 (commencing with Section 63043) of *Chapter 2 of Division 1 of Title 6.7* to pay the cost and expenses of acquiring or constructing a facility or of projects or programs associated with the facility. For purposes of Article 5 (commencing with Section 63043) of *Chapter 2 of Division 1 of Title 6.7*, a facility acquired, constructed, managed, maintained, or operated pursuant to this chapter shall be deemed to be an economic development facility.

~~6411.~~

63038.6. (a) An indenture providing the terms and conditions for the issuance of the revenue bonds and the covenants relating

1 to the bonds shall be approved by resolution adopted by the
2 board of directors. The indenture shall describe or state the
3 revenues and funds from which the bonds shall be payable. The
4 funds or revenues shall include the revenues derived from the
5 operation of the facility for which the bond proceeds are used or
6 expended and any other revenues derived from the facility.

7 (b) Notwithstanding any other provision of law, the principal
8 and interest of the revenue bonds shall be payable as follows:

9 (1) First, out of the revenue derived from the operation of the
10 facility for which the bond proceeds were or are to be used or
11 expended or any other revenues derived from the facility,
12 including facilities fees imposed pursuant to subdivision (j) of
13 Section 6406.

14 (2) (A) Second, from other revenues, including existing funds,
15 of the board that are described or stated as security for the bonds
16 in the indenture in accordance with this section.

17 (B) Notwithstanding subparagraph (A), no revenue derived
18 from any other facility owned by the board shall be applied to
19 payment of principal or interest, or any related cost, of the bonds,
20 nor stated as security for the bonds.

21 ~~6412.~~

22 63038.7. Any bonds issued under this chapter shall be
23 payable within not more than 40 years from the date of issue.

24 ~~6413.~~

25 63038.8. Neither the revenue bonds issued under this
26 chapter, the contracts or obligations entered into to carry out the
27 purposes for which bonds are issued, payable in whole or in part
28 from the proceeds of the bonds, nor any other form of
29 indebtedness incurred by the board, shall constitute a debt,
30 liability, or obligation of the state. Any bond or other evidence of
31 indebtedness issued pursuant to this chapter shall state this
32 provision on its face.

33 34 Article 5. Construction of Chapter

35
36 ~~6423.~~

37 63038.9. This chapter shall be liberally construed to
38 effectuate its purposes.

1 ~~6424.~~

2 63038.10. If any provision of this chapter or the application
3 of any provision of this chapter in any circumstance to any
4 person, city, county, or district, the state, or any agency or
5 subdivision of the state, is held invalid, that invalidity shall not
6 affect other provisions or applications of this chapter that may be
7 given effect without the invalid provision or application of the
8 invalid provision, and to this end the provisions of this chapter
9 are severable.

10 SEC. 2. Section 63040 of the Government Code is amended
11 and renumbered to read:

12 ~~63040.~~

13 63036.5. (a) Following consultation with appropriate state
14 and local agencies, the bank shall establish criteria, priorities, and
15 guidelines for the selection of projects to receive assistance from
16 the bank. Projects shall comply with the criteria, priorities, and
17 guidelines adopted by the bank.

18 (b) The criteria, priorities, and guidelines shall, at a minimum,
19 be based upon *all of* the following:

20 (1) The State Environmental Goals and Policy Report, or its
21 successor, approved pursuant to Article 5 (commencing with
22 Section 65041) of Chapter 1.5 of Division 1 of Title 7.

23 (2) If the sponsor is a state agency, board, commission, or
24 department, the Capital and Infrastructure Project Planning
25 Report, prepared by the Director of Finance pursuant to Article 2
26 (commencing with Section 13100) of Chapter 2 of Part 3 of
27 Division 3 of Title 2.

28 (c) When the bank establishes or makes changes to the criteria,
29 priorities, and guidelines, the bank shall notify the Governor, the
30 fiscal and policy committees of the Legislature that exercise
31 legislative oversight of the bank, and appropriate state and local
32 agencies.

33 (d) The resolution required in Section 63041 shall have been
34 adopted prior to the project's selection by the bank.